

03-28-01

DAC #11



Atty Docket: 99,001

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Date: March 27, 2001

Hai Xing Chen

Serial No.: 09/253,573

Group Art Unit: 1632

Filed: June 28, 1999

Examiner: Richard Schnizer

For: A Method For Production And  
Delivery of A Protein In Vivo**RECEIVED**

MAR 29 2001

OFFICE OF PETITIONS

PETITION TO REVIVE  
PURSUANT TO 37 CFR 1.137(b)  
ALTERNATIVELY UNDER 37 CFR 1.137(a) OR 1.182, OR 1.183

Commissioner for Patents  
 Box DAC  
 Washington, D.C. 20231

Sir:

In response to the Notice of Abandonment of above-referenced patent application dated February 16, 2001, please consider the Petition to Revive with following Remarks, and enter the Response to the Office Action dated July 17, 2000.

CERTIFICATE OF MAILING BY EXPRESS MAILExpress Mail mailing label number EK558142615US

I hereby certify that this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 in an envelope addressed to:

Box DAC  
 Commissioner for Patents  
 Washington, D.C. 20231

on 3/27/2001

Typed or printed name of person signing this certificate

Yi LiSignature 

03/28/2001 RHARIS1 00000112 09253573

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620.00 OP

09/25/2001 09:12/2001 AXELLEY 00000112 09253573 -620.00 OP	09/25/2001 09:12/2001 AXELLEY 00000112 09253573 -945.00 OP	09/25/2001 AXELLEY 000010970	CURRY Refund Total: \$620.00	CURRY Refund Total: \$945.00
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## REMARKS

The Applicant's Attorney had a telephone interview with the Examiner relating to the outstanding Office Action at the beginning of December 2000. During the interview, Applicant's Attorney discussed the merits of the Second Office Action and presented reasons that the finality of the Second Office Action was premature and improper. The Examiner agreed to withdraw the finality of the Second Office Action and issue a new Office Action. Applicant's Attorney and Agent had several follow-up telephone conversations with the Examiner and the Primary Examiner.

However, withdrawal of the finality of Second Office Action and the issuance of a new Office Action was not sent out by the Patent and Trademark Office before the six month statutory deadline. Consequently, the instant patent application technically went abandoned. Applicant detrimentally relied on the understanding with the Examiner that the Office Action would be withdrawn and a new Office Action would be issued. Applicant's Attorney encloses herein two telephone interview summaries issued by the Examiner for the above described process.

Therefore, Applicant respectfully submits that the entire delay was unintentional, and respectfully requests Commissioner's timely consideration of Applicant's Petition to Revive of the instant application.

Applicant also submits the Response to the Office Action dated July 17, 2000, and \$620.00 petition fee under 1.17(m) (small entity). However, because of the special circumstances which occurred in the instant application, Applicant respectfully requests Commissioner's consideration of this Petition under 37 CFR 1.137(a) (unavoidable) to reduce the petition fee from \$620.00 to \$55.00 pursuant to 37 CFR 1.17(l) or alternatively under 1.37 CFR 1.182 (Questions not specifically provided for) or 1.183 (Suspension of rules) to reduce the petition fee from \$620.00 to \$130.00 pursuant to 37 CFR 1.17(h).

3-27-01

Date of Signature

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